

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

IBRAHIM AZIZ,	)	
	)	
Plaintiff	)	
	)	
v.	)	No. 3:15-0370
	)	Judge Campbell/Bryant
	)	<b>Jury Demand</b>
TBC RETAIL GROUP d/b/a	)	
NATIONAL TIRE AND BATTERY,	)	
	)	
Defendant	)	

**TO: THE HONORABLE TODD J. CAMPBELL**

**REPORT AND RECOMMENDATION**

Defendant, NTW, LLC d/b/a National Tire and Battery, has filed its Motion To Dismiss for Failure To Prosecute (Docket Entry No. 25).

As grounds for this motion, Defendant states that Plaintiff Aziz, who is proceeding *pro se* and *in forma pauperis*, has refused to appear for his duly noticed discovery deposition and has failed to comply with the order of the Court requiring Plaintiff Aziz to serve his initial disclosures in compliance with Rule 26(a) and his responses to Defendant's interrogatories and requests for production of documents no later than December 7, 2015 (Docket Entry No. 22). This order further admonished Plaintiff that his failure to comply may subject Plaintiff to discovery sanctions including but not limited to dismissal of his complaint.

Plaintiff Aziz has not complied with the Court's order regarding discovery nor has he filed a response to Defendant's

motion to dismiss for lack of prosecution. The record indicates that recent mailings by the Clerk to Plaintiff at his address of record have been returned by the post office marked "Unclaimed - Unable to Forward" (Docket Entry Nos. 21 and 24). This evidence suggests that Plaintiff Aziz has failed to keep the Clerk informed of his current mailing address.

For the foregoing reasons, the undersigned Magistrate Judge finds that the complaint should be dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for Plaintiff's failure to comply with an order of the Court requiring him to respond to discovery and his failure to prosecute this case.

#### **RECOMMENDATION**

For the reasons stated above, the undersigned Magistrate Judge recommends that Defendant's motion to dismiss for lack of prosecution (Docket Entry No. 25) be granted and the complaint dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has **14 days** from receipt of this Report and Recommendation in which to file any written objections to this Recommendation with the District Court. Any party opposing said objections shall have **14 days** from receipt of any objections filed in this Report in which to file any responses to said objections. Failure to file specific

objections within **14 days** of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. *Thomas v. Arn*, 474 U.S. 140 106 S. Ct. 466, 88 L.Ed.2d 435 (1985), *Reh'g denied*, 474 U.S. 1111 (1986).

**ENTER** this 1<sup>st</sup> day of February, 2016.

/s/ John S. Bryant  
JOHN S. BRYANT  
United States Magistrate Judge